

State of New Hampshire  
Division of Plant and Property Management  
Bureau of Purchase and Property  
25 Capitol Street, State House Annex  
Concord, NH 03301-6398

Date: 8/13/04

Bid No.: 86

Date of Bid Opening: 9/01/04  
Time of Bid Opening: 2:00 pm

PLEASE DIRECT ANY QUESTIONS REGARDING THIS BID TO: BONNY JOHN, PURCHASING AGENT  
TEL. NO: (603) 271-3135 - FAX No. (603) 271-2700

## BID INVITATION FOR: INCONTINENCE CARE BRIEFS

Unless specifically amended or deleted by the Division of Plant and Property Management, the following General Terms and Conditions apply to this Bid and any resulting Purchase Order or Contract.

### GENERAL CONDITIONS AND INSTRUCTIONS:

**NATURE OF, AND ELIGIBILITY TO RESPOND.** This bid invitation is submitted in accordance with Chapter 21-1, and rules promulgated thereunder, and constitutes a firm and binding offer. A bid may not be withdrawn unless permission is obtained from the Bureau of Purchase and Property.

Bids may be issued only by the Bureau of Purchase and Property and are not transferable.

**SAMPLES AND DEMONSTRATIONS.** When samples are required they must be submitted free of costs and will not be returned.

Items left for demonstration or evaluation purposes shall be delivered and installed free of charge and shall be removed at no cost to the State. Demonstration units shall not be offered to the State as new equipment.

**Bids.** Bids must be received at the Bureau of Purchase and Property before the date and time specified for the opening. Bids must be submitted on this bid form or exact copies and must be typed or clearly printed in ink. Corrections must be initialed. Bids are to be made less Federal Excise Tax and no charge for handling unless required by law.

Bids will be made available to the public after the time of award. Bid results will be given by mail only if requested in writing and accompanied by a self-addressed, stamped business size envelope.

**SPECIFICATIONS.** Vendors must submit on items as specified. Proposed changes must be submitted in writing and received at the Bureau of Purchase and Property at least five (5) working days prior to the bid opening. Vendors shall be notified in writing if any changes to the specifications are made.

**AWARD.** The award will be made to the responsible Vendor submitting a conforming RFB meeting specifications at the lowest cost unless other criteria are noted in the RFB. Unless otherwise noted, the award may be made by individual items.

If there is a discrepancy between the unit price and the extension, the unit price will prevail.

When identical low bids are received the award will be made in accordance with the Administrative Rules.

Discounts will not be considered in making award but may be offered on the Invoice for earlier payment and will be applicable on the date of completion of delivery or receipt of Invoice, whichever is later. On orders specifying split deliveries, discounts will apply on the basis of each delivery or receipt of Invoice, whichever is later.

**PATENT INFRINGEMENT.** Any responding vendor who has reason to believe that any other responding vendor will violate a patent should such responding vendor be awarded the contract shall set forth in writing, prior to the date and time of opening, the grounds for his belief and a detailed description of the patent.

**ASSIGNMENT PROVISION.** The responding vendor hereby agrees to assign all causes of action that it may acquire under the antitrust laws of New Hampshire and the United States as the result of conspiracies, combinations, or contracts in restraint of trade which materially affect the price of goods or services obtained by the state under this contract if so requested by the State of New Hampshire.

**FEDERAL FUNDS.** This Division of Plant and Property Management, under RSA 21-1:14, VIII shall assure the continuation or granting of federal funds or other assistance not otherwise provided for by law by following the Federal Procurement Standards.

**STATE'S OPTIONS:** The Bureau of Purchase and Property reserves the right to reject or accept all or any part of any bid, to determine what constitutes a conforming bid, to award the bid solely as it deems to be in the best interest of the State, and to waive irregularities that it considers not material to the bid.

**PUBLIC INFORMATION:** The responding vendor hereby acknowledges that all information relating to this bid and any resulting order (Including but not limited to fees, contracts, agreements and prices) are subject to these laws of the State of New Hampshire regarding public information.

**PERSONAL LIABILITY:** The responding vendor agrees that in the preparation of this bid or the execution of any resulting contract or order, representatives of the State of New Hampshire shall incur no liability of any kind.

**PROOF OF COMPLIANCE.** The responding vendor may be required to supply proof of compliance with proposal specifications. When requested, the responding vendor must immediately supply the Bureau of Purchase and Property with certified test results or certificates of compliance. Where none are available, the State may require independent laboratory testing. All costs for such testing certified test results or certificate of compliance shall be the responsibility of the responding vendor.

**FORM OF CONTRACT.** The terms and conditions set forth in any additional Terms and Conditions by the Bureau of Purchase and Property are part of the bid and will apply to any contract awarded the responding vendor unless specific exceptions are taken and accepted and will prevail over any contrary provisions in Terms and Conditions submitted by the responding vendor.

**OFFER.** The undersigned hereby offers to sell to the State of New Hampshire the commodities or services indicated in the following page(s) of this Bid at the price(s) quoted in complete accordance with all conditions of this Bid.

**Company**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Tel.:(local)** \_\_\_\_\_ **(Toll free)** \_\_\_\_\_

**Fax#:** \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

**Authorized**

**Signature:** \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

This document must be signed by a person who is authorized to legally obligate the responding vendor. A signature on this document indicates that all State of New Hampshire terms and conditions are accepted by the responding vendor and that any and all other terms and conditions submitted by the responding vendor are null and void, even if such terms and conditions have terminology to the contrary. The responding vendor shall also be subject to State of New Hampshire terms and conditions as stated on the reverse of the purchase order.

## CONTRACT TERMS AND CONDITIONS

**1.** The State of New Hampshire, acting through the Division of Plant and Property Management, engages the firm or individual ("the Vendor") to perform the services and/or sale of goods, described in the attached State documents, if any, and the Vendor's bid or quotation, both of which are incorporated herein by reference.

**2. COMPLIANCE BY VENDOR WITH LAWS AND REGULATIONS.** In connection with the performance of this agreement, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Vendor, including, but not limited to civil rights and equal opportunity laws.

**3. TERM.** The contract, and all obligations of the parties thereunder, shall become effective on a specified date and shall be completed in their entirety prior to a specified date. Any work undertaken by the Vendor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work.

**4. CONTRACT PRICE.** The contract price, a payment schedule and a maximum limitation of price shall be as specified by the bid invitation and the Vendor's bid. All payments shall be conditioned upon receipt, and approval by the State, of appropriate vouchers and upon satisfactory performance by the Vendor, as determined by the State. The payment by the State of the Contract Price shall constitute complete reimbursement to the Vendor for all expenses of any nature incurred by the Vendor in the performance by the Vendor and complete payment for the Services. The State shall have no other liability to the Vendor.

**5. DELIVERY.** If the vendor fails to furnish items and/or services in accordance with all requirements, including delivery, the state may re-purchase similar items from any other source without competitive bidding, and the original vendor may be liable to the state for any excess costs.

If a vendor is unable to complete delivery by the date specified, he must contact the using agency. However, the agency is not required to accept a delay to the original delivery date. All deliveries are subject to inspection and receiving procedure rules as established by the State of New Hampshire. Deliveries are not considered accepted until compliance with these rules has been established. State personnel signatures on shipping documents shall signify only the receipt of shipments. All deliveries shall be FOB Destination.

**6. INVOICING.** All invoices must be in triplicate showing Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted on the invitation to bid or purchase order, payment will not be due until thirty (30) days after all services have been completed, or all items have been delivered, inspected and accepted or the invoice has been received at the agency business office, whichever is later.

### **7. PERSONNEL.**

**7.1.** The Vendor shall disclose in writing the names of all owners (5% or more), directors, officers, employees, agents or subcontractors who are also officials or employees of the State of New Hampshire. Any change in this information shall be reported in writing within fifteen (15) days of their occurrence.

**7.2.** The person signing this agreement on behalf of the State, or his or her delegatee ("Contracting Officer") shall be the State's representative for purposes of this agreement. In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.

### **8. EVENT OF DEFAULT; REMEDIES.**

**8.1.** Any one or more of the following acts or omissions of the Vendor shall constitute an event of default hereunder ("Events of Default"):

**8.1.1.** failure to deliver the goods or services satisfactorily or on schedule; or

**8.1.2.** failure to submit any report required hereunder; or

**8.1.3.** failure to perform any of the other covenants and conditions of this agreement.

**8.2.** Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

**8.2.1.** give the Vendor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this agreement, effective two (2) days after giving the Vendor notice of termination; and

**8.2.2.** give the Vendor a written notice specifying the Event of Default and suspending all payments to be made under this agreement and ordering that the portion of the Contract Price, which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default, shall never be paid to the Vendor; and

**8.2.3.** set off against any other obligation the State may owe to the Vendor any damages the State suffers by reason of any Event of Default; and

**8.2.4.** treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Vendor.

**10. VENDOR'S RELATION TO THE STATE.** In the performance of this agreement the Vendor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Vendor nor any of its officers, employees, agents or members shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

**11. ASSIGNMENT AND SUBCONTRACTS.** The Vendor shall not assign, or otherwise transfer any interest in this agreement without the prior written consent of the State. No work required by this contract shall be subcontracted without the prior written consent of the State.

**12. INDEMNIFICATION.** The contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Vendor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

**12.1 PATENT PROTECTION.** The seller agrees to indemnify and defend the State of New Hampshire from all claims and losses resulting from alleged and actual patent infringements and further agrees to hold the State of New Hampshire harmless from any liability arising under RSA 382-A:2-312(3). (Uniform Commercial Code).

**13. TOXIC SUBSTANCES.** In compliance with RSA 277-A known as the Workers Right to Know Act, the vendor shall provide Material Safety Data Sheets with the delivery of any and all products covered by said law.

**14. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given below.

**15. AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

**16. CONSTRUCTION OF AGREEMENT AND TERMS.** This agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

**17. ADDITIONAL PROVISIONS.** The additional provisions (if any) have been set forth as Exhibit "A" hereto.

**18. ENTIRE AGREEMENT.** This agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

## **BID INVITATION FOR A CONTRACT FOR: INCONTINENCE CARE BRIEFS & RELATED SUPPLIES**

### **PURPOSE:**

The purpose of this request for bid (RFB) is to establish a contract for Incontinence Care Briefs and Related Supplies to be ordered by New Hampshire agencies, during the term of the contract, in accordance with the requirements of this bid invitation and any resulting contract.

### **ELIGIBLE PARTICIPANTS:**

Political sub-divisions (counties, cities, towns, school districts, special district or precinct, or any other governmental organization), or any nonprofit agency under the provisions of section 501c of the federal internal revenue code, shall be eligible to participate under this contract whenever said sub-division or nonprofit agency so desires.

### **BID SUBMITTAL**

Bids must be received at the State of New Hampshire Bureau of Purchase and Property on or before the date and time specified for the opening. Bids must be submitted on this bid form or exact copies, and must be type or clearly printed in ink. Responses may be faxed to (603) 271-2700 or may be mailed to: Bureau of Purchase and Property, 25 Capitol St., Concord NH 03301. All responses must be clearly marked with RFB number, date due and purchasing agent's name.

### **STATE OF NEW HAMPSHIRE VENDOR APPLICATION**

Bidders must have a completed Vendor Application and W-9 Form on file with the NH Bureau of Purchase and Property. See the following website for information on obtaining and filing the required forms (no fee):

<http://www.admin.state.nh.us/purchasing>

### **NEW HAMPSHIRE SECRETARY OF STATE REGISTRATION**

A person or persons conducting business under any name other than his/her own legal name must register with the NH Secretary of State. Businesses are classified as 'Domestic' (in-state) or 'Foreign' (out-of-state). Please visit the following website to find out more about the requirements for both classifications: [www.nh.gov/sos/corporate](http://www.nh.gov/sos/corporate)

### **CONTRACT TERM:**

The contract shall become effective upon the approval of the Commissioner of the NH Department of Administrative Services. Initial contract period shall begin on September 01, 2004, or upon notification of award, and shall extend through August 31, 2006. Contract terms may be extended for additional periods, upon the recommendation and approval of DAS, not to extend beyond August 31, 2009. The State of New Hampshire shall have the right to terminate the contract at any time by giving the vendor a thirty-(30) day written notice.

### **BID PRICES:**

The prices bid by the successful bidder shall remain firm for the entire term of the contract and any extension thereof and shall include delivery and all other charges. All prices must be quoted 'per case'. Bid prices should be government and/or educationally discounted prices.

### **SPECIFICATION COMPLIANCE:**

The manufacturers and/or product numbers indicated are the only ones that are acceptable under this bid invitation.

### **ABILITY TO PROVIDE:**

Successful bidder must be capable of providing each State of New Hampshire agency and institution and political sub-divisions and authorized non-profit organizations with their entire requirements without any delay or substitution.

### **ORDERING PROCEDURE:**

All orders shall be placed directly to vendor by agency. Political sub-divisions and authorized non-profit organizations shall utilize their own individually established ordering procedures.

### **AUDITS AND ACCOUNTING:**

At intervals during the contract term, and prior to the termination of the contract, the successful bidder will be required to provide a complete and accurate accounting of all products and quantities ordered under this agreement.

Based upon past history, the estimated annual value of the contract is approximately \$30,000. This figure is given for informational purposes only and shall not be considered a guaranteed or minimum figure, nor shall it be considered a maximum figure. The quantity and type of items indicated in this RFB is an estimate for the State of New Hampshire's annual requirements. These quantities are indicated for informational purposes only and shall not be considered minimum or guaranteed quantities, nor shall they be considered maximum quantities. Quantities for political sub-divisions or county nursing homes are unknown.

Invoicing shall be done on the basis of each order completed. Invoices shall clearly indicate the quantity, description, packaging, delivery date, contract number and price.

Contract award will be based upon the lowest unit prices offered per case. One award will be made for each brand listed in this RFB.

Successful bidder agrees to complete delivery of items ordered under any resulting contract within 15 days of receipt of order from an agency or institution.

Glenclyff Home f/t Elderly	Glenclyff NH 03238	603-989-3111
NH Hospital Warehouse	Concord NH 03301	603-271-5866
NH Veterans Home	Tilton NH 03276	603-527-4870

The part numbers and sizes of items included in this RFB represent the most commonly purchased items by State of New Hampshire agencies. Additional incontinence care briefs and/or other related supplies might be required by an agency during the term of any resulting contract. Agency will contact the contractor for price quotes on any items not listed in this RFB.

Bidder hereby offers to furnish incontinence care products to the State of New Hampshire institutions in accordance with all of the requirements of this bid invitation at the following prices:

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OTHER ELIGIBLE USERS

Political sub-divisions or authorized non-profit organizations are also eligible to participate in this contract. The names and locations of the county nursing homes are provided for informational purposes only. Previously established purchasing procedures for each entity will be used to make any purchases under this agreement

Location/Tel No

Location/Tel No

603-524-4048  
Belknap County  
64 Court St  
Laconia NH 03246

603-627-5540  
Hillsborough County  
300 Chestnut St  
Manchester NH 03101

603-539-7511  
Carroll County  
Admin Building Rte 171  
PO Box 152  
Ossipee NH 03864

603-796-2168  
Merrimack County  
325 Daniel Webster Hwy  
Boscawen NH 03303

603-399-4912  
Cheshire County  
33 West St  
Keene NH 03431

603-879-5335  
Rockingham County  
119 North Rd  
Brentwood NH 03833

603-752-2343  
Coos County  
Commissioners Office  
PO Box 10  
W Stewartstown NH 03597

603-772-1348  
Strafford County  
County Farm Rd  
PO Box 799  
Dover NH 03820

603-787-6971  
Grafton County  
RR1 Box 67  
N Haverhill NH 03774-9758

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BIDDER CONTACT INFORMATION:

Bidder must provide contact information for the person who will answer all questions regarding this bid submittal.

Name: \_\_\_\_\_

Tel. No. \_\_\_\_\_

Email: \_\_\_\_\_

Fax. No. \_\_\_\_\_